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TEACHING "BACK TO THE CONSTITUTION."*

The fact that assaults are being made upon the judiciary for deciding, as they are compelled to do now and then, that a statute is void because it violates either State or the Federal Constitution, by an element of our population who are without root in the Revolutionary days and the formative period of our Government, makes it necessary that the College, aye, and the High Schools shall teach the youth of our land to both know and cherish the history which inspired the Fathers to build the most wonderful government ever created by man—the government of the people, by the people, and for the people. Such a government for continued success, must depend upon an educated Electorate, who, because of their trained minds, cannot be deceived by the ambitious and selfish leaders whose eloquent tongues seek to persuade the people to travel in dangerous paths.

Never in the history of this country were there here so many descendants of non-English speaking peoples, brought up to hate the governments of which they were subject, and who are wholly without knowledge of the principles upon which our government was so wisely builded. If their children are made to understand, by careful instruction, the aims of the Fathers, the principles which actuated them and the wisdom which inspired their governmental building, they will come in time to be a helpful addition to our vast population. But if they are not thus educated, it is quite likely that great numbers of them will be led by the Anarchists, the I. W. W's, the Russian Reds, and others of like character to join the forces to openly seek the overthrow of our Government that they may fatten upon the fruits of the people's labors.

The theory of the constitutional form of government which the Fathers—of whom we are justly proud—created, was that the National Constitution was created by the people, and can only be changed by the people. That within that instrument must be found all the power that may be exercised by it until and unless the people shall grant to that government additional powers. And from time to time, since the adoption of the first ten

*Parts of an Address by Judge Alton B. Parker, of New York, at the College of William and Mary, Jan. 14th, 1922.

amendments, other amendments to the Constitution have been made, conferring powers upon the National Government, which were not granted in the beginning. It is quite likely that other amendments may be made in the future, giving to the Federal Government still greater powers than it possesses today. But those powers can only be acquired by the Federal Government through the method the people have provided, which method finally results in having three-fourths of the States ratify the proposed amendment to the Constitution either by the Legislatures of such States or by a Convention chosen by the people of those States.

But there are those in these latter days who advocate the breaking down of the safeguards which the people secured by their Constitutions. Some of them would strip the owners of property, secured by years, and sometimes by generations of hard work, and divide it as the Soviet Government in Russia has attempted to do. One result of an effective attempt to take from those who live economically, work hard, earn and save—and divide it among people who do none of these things—is to be found in the starving millions in Russia to whom we are sending free, many millions of dollars' worth of food to save lives. But that effort to serve the Russian people does not halt the ambition of the Soviet Government and the hordes of sympathetic Russians who have come to this country for the purpose of helping to overthrow the best government on earth, from continuing their effort. Nor does the fact of the great suffering and threatened death of many millions restrain the longings of those vast aggregations of enemies of work from seeking that which—according to their philosophy—is their proportionate share of the property, real and personal, of the world. A government which seeks to educate all of the youth of its country; stimulate all the people to work, and encourages thrift, is an anathema to them. As people of this class have been coming to us in large numbers from nearly every quarter of the globe, we must take up the task of so educating all classes of our vast population as that they shall fully understand the importance of maintaining in its integrity our Constitutional plan of Government. They should be taught in the first instance, why it was that the people in the formative period of our government were bound to have, and did

at last secure, a government which the people could control despite their legislatures, whether representing the States or the Federal Government. Vast powers are given to the executive, the legislative and the judicial departments of the government, but not all of the power possessed by the people by any means. In that fact rests the ability of the people to hold in check each of the several departments of the government which might on occasion wish to have it otherwise. Occasionally, the legislative department of the State or Federal Government passes an Act which upon its very face defies the Constitution which the people created and under which the legislative department of the government acquires all the power it possesses.

This has been done so often as to demonstrate that the legislative bodies cannot always be trusted to obey the people's Constitution in times of popular stress. And of course at the same time it is proved that the plan of the Fathers in saying in effect through a rigid Constitution—thus far and no farther can you go, is absolutely essential to the maintenance of our form of government. Nevertheless, in this time of selfishness, of agitation and loose thinking, there are those who seek acclaim through a denunciation of the courts for judicially declaring that certain statutes offend against the people's Constitution. In other words, the courts say in such decisions that the legislative body has attempted to exercise a power denied to it by the people through their Constitution.

Addresses have recently been made from purely selfish purposes with a view of creating the impression in the public mind that the courts have in the past and without warrant seized this power. The authors assert that such a thing as a judgment of a court declaring an Act void was unknown in Great Britain from whence came our knowledge of the common law and of equity jurisprudence. But as Lord Bryce points out with great clearness in his *American Commonwealth*, the British Constitution is not to be compared with ours. He says:

"What are called in England constitution statutes, such as Magna Charta, the Bill of Rights, the Act of Settlement, the Acts of Union with Scotland and Ireland, are merely ordinary laws, which could be repealed by Parliament at any moment in exactly the same way as it can repeal a highway act or lower the duty on tobacco."

It is fitting that the name of the foremost jurist in all our history shall stand at the head of the Chair of Governmental History in this College. It is most appropriate also, that another one of William and Mary's students and jurists, the first great law teacher in this country, Judge Wythe, should be connected with that of Marshall in the naming of the Chair.

It is most fitting, now that the strength of William and Mary College is waxing, that she is to found a chair for that purpose, to bear the name of Marshall and Wythe. The purpose is to have the teaching of our Governmental history so thoroughly done that the hundreds and in a little while perhaps the thousands who go out each year from this old college, famous for its long line of great Presidents and professors and its illustrious students, will in turn make the people understand the sources from which our leaders in the early days of our country's history drew the principles and the precedents which enabled them in their wisdom to build the best governmental system that the world ever saw. Those famous William and Mary students included four signers of the Declaration of Independence; three Presidents, Jefferson, Monroe and Tyler, eleven cabinet officers, with a goodly number of foreign ministers, Senators and representatives in Congress and judges.